

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

IN RE:)
)
RODRIGO REX PANARES and) CASE NO. 08-20471 JPK
MAUREEN ANN PANARES,) Chapter 13
)
Debtors.)

ORDER DENYING MOTION TO REINSTATE ["MOTION"]

The Motion was filed on November 13, 2008, apparently to seek to set aside the court's order entered on November 3, 2008 which dismissed the debtors' Chapter 13 case. The Motion fails to state a claim cognizable to the court for the following reasons:

1. The order of dismissal is a final appealable order. There is no such thing as a "motion to reinstate" in the Federal Rules of Bankruptcy Procedure or the Federal Rules of Civil Procedure. A final appealable order is challenged either by means of an appeal under Fed.R.Bankr.P. 8001, *et seq.*; by a motion for a new trial or amendment of judgment under Fed.R.Bankr.P. 9023/Fed.R.Civ.P. 59; or by a motion for relief from a final judgment under Fed.R.Bankr.P. 9024/Fed.R.Civ.P. 60.

2. Any motion presented to the court must "state with particularity the grounds therefor, and . . . set forth the relief or order sought"; Fed.R.Bankr.P. 9013. The Motion fails to cite any authority upon which the relief requested by it may be granted, and thus it fails to "state with particularity the grounds" upon which it is based.

3. A motion seeking relief under Fed.R.Bankr.P. 9023 or Fed.R.Bankr.P. 9024 must be accompanied by a supporting brief, and any other evidentiary materials required for the court to consider the motion without the conducting of a hearing; N.D.Ind.L.B.R. B-9023-1(a). The Motion fails to comply with this provision.

4. The movant's attorney has chosen to use a form of "drop dead" notice provided for by N.D.Ind.L.B.R. B-2002-2. There is no provision in that rule for the utilization of the

procedures of that rule with respect to the relief requested by the Motion.

Based upon the foregoing deficiencies, the court finds that the Motion should be denied, without prejudice.

IT IS ORDERED that the Motion is denied, without prejudice to the seeking of relief in accordance with applicable law and rules.

Dated at Hammond, Indiana on January 8, 2009.

/s/ J. Philip Klingeberger
J. Philip Klingeberger, Judge
United States Bankruptcy Court

Distribution:
Debtors, Attorney for Debtors
Trustee, US Trustee